

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:21-CV-082-DCK**

PENNY DANCY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Motion For Attorney Fees Under § 406(b) Of The Social Security Act” (Document No. 21) filed September 15, 2023. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will grant the motion.

By the instant motion, Plaintiff’s counsel (the “Movant”) seeks an award of attorney fees pursuant to 42 U.S.C. §§ 206(B) and 406(b) in the amount of \$7,208.63. (Document No. 21, p. 1). Movant notes that “[t]his represents less than 25% of the back benefits awarded to Plaintiff by the Social Security Administration (“SSA”).” Id. (citing Document No. 21-2). Movant also argues that the fees sought are reasonable, noting that Plaintiff has been “awarded \$57,634.52 in back benefits as well as ongoing benefits.” (Document No. 21, p. 2) (citing Mudd v. Barnhart, 418 F.3d 424, 428 (4th Cir. 2005) and (Document No. 21-1)).

“Defendant’s Response...” states that it “neither supports nor opposes counsel’s request for attorney’s fees.” (Document No. 23, p. 1). Defendant notes that the request for fees must

satisfy the “requirement of reasonableness” and that “attorney’s fees awarded under 42 U.S.C. § 406(b) may not exceed 25% of the total of the claimant’s past-due benefits” Id.

Based on the parties’ briefs and the applicable legal authority, the undersigned will allow Movant’s request.

IT IS, THEREFORE, ORDERED that “Plaintiff’s Motion For Attorney Fees Under § 406(b) Of The Social Security Act” (Document No. 21) is **GRANTED**.

IT IS FURTHER ORDERED that Movant, Charlotte W. Hall, is awarded the sum of **\$7,208.63**, to be sent by the Commissioner to Movant’s office at P.O. Box 58129, Raleigh, North Carolina 27658. Upon receipt of such payment, Movant shall refund to Plaintiff the EAJA fee award of **\$5,600.00**. See (Document No. 20).

SO ORDERED.

Signed: September 21, 2023



David C. Keesler
United States Magistrate Judge

